

# Notice of Allowability

Application No.

09/691,049

Examiner

Robert W Wilson

Applicant(s)

DE CNODDER, STEFAAN JOZEF

Art Unit

2661

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/14/0.
2. ☒ The allowed claim(s) is/are 1-9.
3. ☒ The drawings filed on 14 October 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 10/24/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

**KENNETH VANDERPUYE**  
PRIMARY EXAMINER

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### **DETAILED ACTION**

**1.0** The application of Stefaan Jozef De Cnodder entitled SHAPING METHOD AND RELATED SHAPER filed on 10/19/2000 and amended on September 14, 2004 was examined. Claims 1-9 are pending. A PTO 1449 was received on September 24, 2004 all of the documents except the non-patent literature were reviewed; because, the non- patent literature documents were not present in the case. If the applicant desires for these references to be considered the examiner requests that these documents be resubmitted.

### **Allowable Subject Matter**

**2.0** The present invention is directed to a shaper which accepts incoming flow into a buffer, a first determiner calculates leaking time moment based upon a traffic contract, a marker is fed back from down stream with a conform time moment, and if the conform time moment is less than the leak time then leak time moment is set equal to the conform time, and leak time moment determines the out going flow of the buffer.

The closest prior art is the Lyon et. al. (U.S. Patent No.: 6,333,917) which is an IDS document of record. Lyon teaches a shaper which accepts incoming flow into buffers, measures the flow rate, and feeds back the flow rate.

The closest prior art Lyon et. al. (U.S. Patent No.: 6,333, 917) does not either singularly or in combination disclose, anticipate, or render the following claim limitation obvious:

“comparing said conform time moment with said leaking time moment and in the even when said conform time moment is earlier than said leaking time moment, giving said leaking time moment the value of said conform time moment in order to leak said buffered data packet at that time moment” as claimed in **Claims 1 & 6**.

### **In Addition:**

**Claims 2-5** are allowed because they depend upon **Claim 1**.

**Claims 7-9** are allowed because they depend upon **Claim 6**.

Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee.

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Such submissions should be clearly labeled "comments on Statement of Reasons for Allowance."

***Conclusion***

**3.0** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W Wilson whose telephone number is 571/272-3075. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on 571/272-3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert W Wilson  
Examiner  
Art Unit 2661

RWW  
November 2, 2004



KENNETH VANDERPUYE  
PRIMARY EXAMINER